

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN DARNELL BRYANT, D56620,

Petitioner,

v.

BRIAN KIBLER, Warden,

Respondent.

Case No. [20-cv-08986-CRB](#) (PR)

**ORDER DISMISSING PETITION FOR
A WRIT OF HABEAS WITHOUT
PREJUDICE**

(ECF Nos. 2 & 3)

Petitioner, a state prisoner at High Desert State Prison (HDSP) in Susanville, California and frequent litigant, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the conditions of his confinement at HDSP during the current pandemic.

Based on petitioner's prior affidavits of poverty, leave to proceed IFP is GRANTED. But the petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983 in the United States District Court for the Eastern District of California.

It is well established in the Ninth Circuit that habeas jurisdiction is absent, and a § 1983 action proper, where, as here, a successful challenge to a prison condition or event will not necessarily shorten the prisoner's sentence. See Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003); see also Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper method of challenging conditions of confinement); Crawford v. Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of habeas petition on basis that challenges to terms and conditions of confinement should be brought in civil rights complaint). Petitioner's challenge to the conditions of his confinement at HDSP during the current pandemic accordingly should be brought in a civil rights complaint under § 1983. And because the acts or omissions of which petitioner complains occurred at HDSP, which lies within the venue of the Eastern District of

1 California, a civil rights complaint under § 1983 should be brought in the United States District
2 Court for the Eastern District of California.

3 The clerk is instructed to close this case and terminate all pending motions (see ECF Nos.
4 2 & 3) as moot.

5 **IT IS SO ORDERED.**

6 Dated: December 17, 2020

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8 CHARLES R. BREYER
9 United States District Judge
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United States District Court
Northern District of California